IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4825 OF 2005
IN
FIRST APPEAL NO.384 OF 2004
IN
LAND ACQUISITION REFERENCE NO.4 OF 1992

Chintamani Gajanan Velkar .. Applicant
V/s
State of Maharashtra .. Respondent

Mr.P.P.Paul i/by M/s.Nanu Hormasjee & Co. for the Applicant.

Mr.K.K.Tated, AGP for the Respondent.

CORAM: DR.S.RADHAKRISHNAN &
V.K.TAHILRAMANI, JJ.

DATE : 21.12.2005.

P.C.:

1. Heard the learned Counsel for the Applicant and the learned AGP for the Respondent. By this Civil Application, the Applicant is seeking refund of Court fee amount which has been paid by the Applicant in excess, amounting to Rs.60500/- . The main grievance of the Applicant is that the amendment to the Bombay Court Fees Act, 1959 as amended by the amending Act of 1997 does not have the retrospective effect, and if that be so, the excess court fee ought not to have been collected from the Applicant. In support of his contention, the learned Counsel for the Applicant has referred to the decision of the Division Bench of this Court in the case of **Jaykisan Pannalal Malpani V/s Special Land Acquisition Officer - 2004 (Supp.) Bom.C.R.401**, wherein the same issue was considered as to whether the Bombay Court Fees (Amendment) Act, 1997 was having a retrospective effect. In the aforesaid decision, referring to the various judgments of the High Court as well as the Supreme Court, the Division Bench

of this Court has come to the conclusion that the Bombay Court Fees (Amendment) Act, 1997 does not have retrospective effect. Evem the learned AGP for the Respondent states that he cannot dispute the above proposition of law. Under these circumstances, Civil Application is made absolute in terms of prayer clause (a).

2. The Department is directed to verify as to what is the excess amount of Court fees, and accordingly refund the excess amount of Court fees to the Applicant.

3. Hearing of the Appeal is expedited. Printing is dispensed with. The learned Counsel for the Applicant states that the Applicant will prepare the paper book within a period of six weeks from today.

(DR.S.RADHAKRISHNAN, J.)

(SMT.V.K.TAHILRAMANI,J.)